

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MONTHAKARN ARUNDJIT,

Plaintiff,

v.

WALMART INC., a foreign profit
corporation doing business in
Washington, JOHN DOES 1-10, ABC
CORPORATIONS 1-10,

Defendants.

CASE NO. 2:23-cv-840

ORDER DENYING PLAINTIFF'S
MOTION TO REMAND

1. INTRODUCTION

This matter comes before the Court on Plaintiff Monthakarn Arundjit's motion to remand to state court. Dkt. No. 8. Having considered Arundjit's request, Defendant Walmart Inc.'s response, and the remaining record, the Court DENIES Arundjit's motion for the reasons explained below.

2. BACKGROUND

Arundjit alleges a Walmart associate, "pulling an electric pallet jack[,]” negligently crashed into her shopping cart. Dkt. No. 1-2 at 5. As a result, the shopping cart hit Arundjit's foot causing her severe injuries, "together with pain,

1 discomfort, and limitation of movement[.]” *Id.* at 8. Arundjit seeks damages for
2 physical injury, medical care, lost income, “[p]ain and suffering, mental anguish,
3 inconvenience, disability, and emotional distress,” and “loss of capacity and ability
4 to enjoy life[.]” *Id.*

5 On August 9, 2022, Arundjit filed a complaint against Walmart in King
6 County Superior Court. Dkt. No. 1-2. Walmart then filed a Statement of
7 Arbitrability. Dkt. No. 9 at 29-30. Under King County rules, if the value of
8 Arundjit’s claims did not surpass \$100,000, then the case would be subject to
9 mandatory arbitration. *Id.*; *see also* RCW 7.06.020. On November 23, 2022, Arundjit
10 objected to the Statement of Arbitrability, stating that her “case should NOT be
11 arbitrated” because she “has not yet determined that her claim is suitable for
12 Superior Court Civil Arbitration” *Id.* at 34 (emphasis in original). The state
13 court issued an Order Setting Civil Case Schedule and set January 19, 2023, as the
14 deadline for Arundjit to file a Statement of Arbitrability if she wished to limit her
15 damages to less than \$100,000. Dkt. No. 8 at 4. Arundjit did not file a Statement of
16 Arbitrability by this deadline. *Id.*

17 On February 1, 2023, Walmart received Arundjit’s medical records and
18 discovery describing her injuries. *Id.* at 5. Walmart filed a second motion to transfer
19 to arbitration on May 9, 2023. Dkt No. 1-3. Arundjit responded to this motion on
20 May 23, 2023, arguing that her damages, “while not fully known, show legitimate
21 damage claims that have a reasonable possibility of exceeding the \$100,000
22 mandatory arbitration limit” Dkt. No. 10-7 at 11. King County Superior Court
23 Judge Andrea Darvas denied Walmart’s motion on June 1, 2023, stating that the

1 “Plaintiff has asserted that Plaintiff’s claim exceeds \$100,000” Dkt. No. 1-4 at
2 3.

3 Four days after Judge Darvas’s Order, on June 5, 2023, Walmart filed a
4 notice of removal to federal court. Dkt. No. 1. Arundjit moves to remand the case to
5 state court, arguing Walmart missed the 30-day window to remove set by 28 U.S.C.
6 § 1446(b)(3). Dkt. No. 8.

7 3. DISCUSSION

8 3.1 Legal standard

9 Under 28 U.S.C. § 1441(a), “[a] defendant generally may remove an action
10 filed in state court if a federal district court would have had original jurisdiction
11 over the action,” *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 415 (9th Cir.
12 2018), which may be based on diversity of parties when the amount in controversy
13 “exceeds the sum or value of \$75,000, exclusive of interest and costs.” *Gonzales v.*
14 *CarMax Auto Superstores, LLC*, 840 F.3d 644, 648 (9th Cir. 2016) (citing 28 U.S.C. §
15 1332(a)) (cleaned up). If the initial pleading is not removable on its face, either
16 because diversity or amount in controversy are unclear, then 28 U.S.C. § 1446(b)(3)
17 controls. *Harris v. Bankers Life & Cas. Co.*, 425 F.3d 689, 694 (9th Cir. 2005)
18 (holding that the first 30-day removal period under 1446(b) only applies if the
19 complaint is removable “on its face”).

20 Under § 1446(b)(3), “a notice of removal may be filed within 30 days after
21 receipt by the defendant, through service or otherwise, of a copy of an amended
22 pleading, motion, order or other paper from which it may first be ascertained that
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1 the case is one which is or has become removable.” 28 U.S.C. § 1446(b)(3). To trigger
2 the running of the 30-day removal period, a document must both fit the definition of
3 “pleading, motion, order, or other paper” and it must be ascertainable from that
4 document that the case is removable. To determine whether the facts supporting
5 removal are ascertainable, Ninth Circuit courts apply the “unequivocally clear and
6 certain” standard. *Dietrich v. Boeing Co.*, 14 F.4th 1089, 1094 (9th Cir. 2021). Other
7 circuits applying this standard have held that the papers must provide specific and
8 unambiguous information that shows the case is removal. *Berera v. Mesa Med. Grp.*,
9 *PLLC*, 779 F.3d 352, 364 (6th Cir. 2015); *Walker v. Trailer Transit, Inc.*, 727 F.3d
10 819, 825 (7th Cir. 2013).

11 The defendant has no duty to investigate further if the plaintiff’s papers do
12 not provide a “clear statement of damages sought” or “sufficient facts from which
13 the amount in controversy can easily be ascertained by the defendant by simple
14 calculation.” *Romulus v. CVS Pharmacy, Inc.*, 770 F.3d 67, 75 (1st Cir. 2014). Once
15 those facts become evident from a pleading, motion, order or “other paper,” however,
16 then the 30-day period for removal by the defendant is triggered and removal is
17 timely only if it happens before this period ends. *Id.*

18 There is no dispute about whether there is complete diversity between the
19 parties or whether the amount in controversy exceeds \$75,000; the only question
20 before the Court is whether Walmart timely removed the action from state
21 court. Arundjit alleges that three occurrences should have triggered the 30-day
22 period, any one of which would render Walmart’s June 5th removal untimely. *See*
23 *generally* Dkt. No. 9.

1 **3.2 Arundjit’s response to Walmart’s second motion to transfer to**
2 **arbitration on May 23, 2023, triggered the 30-day clock, so Walmart’s**
3 **removal on June 5, 2023, was timely.**

4 Arundjit argues the Court should find that “by February 1, 2023, [Walmart]
5 did have ‘other paper’ from which it could have ascertained the amount in
6 controversy exceeded \$75,000[.]” Dkt. No. 8 at 14 (emphasis in original). Arundjit
7 claims the removal clock began to run at three junctures. First, she claims Walmart
8 should have known her damages would exceed \$100,000 because she objected to its
9 Statement of Arbitrability on November 23, 2022, and failed to file her own
10 Statement of Arbitrability by January 19, 2023, the court-ordered deadline. *Id.* at
11 17. Arundjit’s objection, however, was not “unequivocally clear and certain.” *See*
12 *Dietrich*, 14 F.4th at 1094. Instead, she stated, “Plaintiff has not yet determined
13 that her claim is suitable for Superior Court Arbitration” Dkt. No. 10-3 at 1.
14 Further, by the plain terms of the statute, Arundjit’s failure to file a paper could
15 never be the same thing as actually filing or serving a “pleading, motion, order, or
16 other paper” as those terms are used in 1446(b)(3). Arundjit does not cite legal
17 authority holding otherwise.

18 Second, Arundjit cites her February 1, 2023, discovery responses as starting
19 the 30-day removal clock. Dkt. No. 8 at 5. To be sure, responses to discovery
20 requests may suffice as “other paper” under 28 U.S.C. § 1446(b)(3), *see, e.g., Lillard*
21 *v. Joint Med. Products*, 1995 WL 20609 *3, (N.D. Cal.1995) (suggesting that all
22 formal discovery meets the definition of “other paper”), but the discovery responses
23 Arundjit prepared and served fall short of an unequivocally clear statement of
damages. The discovery responses listed only two specific numerical amounts:

1 \$8,961.14 and \$5,835.25. *See* Dkt. No. 8 at 8. While Arundjit lists many forms of
2 treatment and states that there are likely future medical expenses, she does not
3 provide an estimated cost for these prospective treatments. *Id.* Walmart may assess
4 removability from the “four corners” of Arundjit’s papers, not speculation about the
5 value of Arundjit’s medical treatments or a duty to make further inquiry. *Harris v.*
6 *Bankers Life & Cas. Co.*, 425 F.3d 689, 694 (9th Cir. 2005). (“We now conclude that
7 notice of removability under § 1446(b) is determined through examination of the
8 four corners of the applicable pleadings, not through subjective knowledge or a duty
9 to make further inquiry.”); *see also Romulus*, 770 F.3d at 75. Here, the four corners
10 of Arundjit’s discovery response and simple calculations reveal damages totaling
11 \$14,796.39, far less than the \$75,000.00 threshold for removal.

12 Lastly, Arundjit argues that her response to Walmart’s second motion to
13 arbitrate on May 23, 2023, “presented Judge Darvas with all the same information
14 disclosed to [Walmart] by February 1, and from that Judge Darvas found it
15 ascertainable” that her damages exceed \$100,000. Dkt. No. 8 at 20. But Arundjit
16 overlooks the fact that her response also included a clear statement missing from
17 other filings—a clear statement that she seeks recovery over \$100,000. Specifically,
18 Arundjit stated in her response, “although . . . Arundjit’s injuries and damages
19 remain not fully known, . . . [she] clearly has a legitimate damages claim that has a
20 reasonable possibility of exceeding the \$100,000 mandatory arbitration limit.” Dkt.
21 No. 10-7 at 9.

22 The Court finds this is an unequivocal statement of damages. Because courts
23 have considered responses to motions be “other paper” listed in 1446(b)(3), this

1 filing triggered the 30-day removal close. *See Jackson v. Brooke*, 626 F. Supp. 1215,
2 1216-1217 (D.Colo.1986); *Amrhein v. Prosperity Bank*, NO. 4:18-CV-19, 2018 WL
3 2392800, at *4 (E.D. Tex. May 25, 2018). Walmart removed this case on June 5,
4 2023, a mere 13 days after Arundjit's unequivocal statement. As a result, Walmart's
5 removal was timely and remand is not required.

6 **3.3 Arundjit is not entitled to attorneys' fees.**

7 Because the Court finds Walmart to have a reasonable basis for seeking
8 removal, attorney's fees under 28 U.S.C. § 1447(c) are not appropriate. Accordingly,
9 the Court denies Arundjit's request for reasonable attorneys' fees.

10 **4. CONCLUSION**

11 Accordingly, the Court DENIES Arundjit's motion to remand to state court.

12 Dated this 20th day of December 2023.

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Jamal N. Whitehead
16 United States District Judge
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